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Thursday, September 18, 2014

Arkansas, Louisiana, New Mexico, Oklahoma, Texas, and 66 Tribal Nations

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1 – Abandoned Houma shipyard makes EPA Cleanup list, WVUE, 9/18/2014
http://www.fox8live.com/story/26564308/abandoned-houma-shipyard-makes-epa-cleanup-list
The old Delta Shipyard was added to the Environmental Protection Agency's Superfund Clean-Up list this week. This means that federal dollars will eventually be used to remove hazardous waste from the site. The state of Louisiana first contacted the EPA on this issue in 2012.

2 – Federal study of Pennsylvania fracking site finds no water pollution, New Orleans Times-Picayune, 9/17/14
http://www.nola.com/environment/index.ssf/2014/09/federal_study_of_pennsylvania.html#incart_river
The final report from a landmark federal study on hydraulic fracturing, or fracking, found no evidence that chemicals or brine water from the gas drilling process moved upward to contaminate drinking water at a site in western Pennsylvania. The Department of Energy report, released Monday, was the first time an energy company allowed independent monitoring of a drilling site during the fracking process and for 18 months afterward.

3 - New Orleans climate festival on tap Sunday to coincide with march in New York, NOLA.com 9/17/2014
http://www.nola.com/environment/index.ssf/2014/09/festival_to_coincide_with_peop.html#incart_river
The Gulf Coast Center for Law and Policy is teaming with other community and civic organizations to host the People's Climate Festival Sunday (Sept. 21) at Armstrong Park in New Orleans. The event is timed to coincide with the People's Climate March event in New York City.

4 – Oklahoma Oil and Gas Regulator Wrestles With Oversight of Wind Industry, State Impact, 9/18/2014
http://stateimpact.npr.org/oklahoma/2014/09/18/oklahoma-oil-and-gas-regulator-wrestles-with-oversight-of-wind-industry/
Corporation Commission meetings are usually pretty dull, but the Sept. 11 technical conference on wind energy was standing room only. It was lively — and theatrical. When Tammy Huffstutlar of Calumet took her turn at the microphone, she cued up recordings of whirring wind turbines to accompany her testimony.

5 – State Officials: Oklahoma Needs Oil Industry's Help to Meet Water Goals, State Impact, 9/17/2014
http://stateimpact.npr.org/oklahoma/2014/09/17/state-officials-oklahoma-needs-oil-industrys-help-to-meet-water-goals/
Insufficient rains and increasing demand put enormous pressure on Oklahoma's water resources both on the surface and underground. But it's also hard to overstate the role evaporation plays in the drought.

6 – Iberia Parish man's backyard project restores wetlands, Baton Rouge Advocate, 9/17/14
http://theadvocate.com/news/10295475-123/story.html
An Iberia Parish wetlands consultant and his do-it-yourself wetlands-restoration project are profiled in a story in The New York Times. "Come the weekend, some people golf. Matt Conn restores his wetland," the article says.

7 – Lawmaker wants EPA to consider cost of new smog limits, Houston Chron, 9/17/2014
http://www.houstonchronicle.com/news/science-environment/article/Lawmaker-wants-EPA-to-consider-cost-of-new-smog-5762732.php
A Texas lawmaker on Wednesday introduced a long-shot bill to force the Environmental Protection Agency to consider cost when setting nationwide limits for smog, or ozone. The bill by U.S. Rep. Pete Olson, a Sugar Land Republican, comes as the EPA considers ordering deeper cuts for the lung-irritating pollutant, which has fouled metropolitan Houston's air for decades.

8 – Drilling on Kirtland wells to start in 2015, Albq Journal, 9/18/14
http://www.abqjournal.com/464188/news/drilling-on-kirtland-wells-to-start-in-2015.html
The Air Force unveiled a proposal Wednesday to begin drilling wells in 2015 to try to intercept groundwater contamination from a Kirtland Air Force Base fuel spill before it can reach Albuquerque municipal drinking water wells. In all, the proposal calls for eight new cleanup wells to be operating by August 2016.

9 – Crossing the Line, Texas Observer, 9/17/2014
http://www.texasobserver.org/keystone-xl-transcanada-crossing-line/
The trouble for Lori Collins and her family started the day in early October 2012 when a backhoe plunged into the earth. Lori walked outside her farmhouse, in the East Texas bottomlands south of Paris, to see that her septic system had been torn from the ground to make way for a pipeline. She saw the piping scattered in the dirt on the side of a great trench—the future home of the controversial Keystone XL pipeline, which could eventually stretch from northern Alberta, Canada, to the Texas Gulf Coast, carrying diluted bitumen to refineries that will transform it into crude oil.

10 – Fatigue Linked To Dozens Of Fatal Crashes Involving Oilfield Workers, State Impact, 9/17/2014
http://stateimpact.npr.org/texas/2014/09/17/fatigue-linked-to-dozens-of-fatal-crashes-involving-oilfield-workers/
State Highway 72 cuts through the heart of the Eagle Ford Shale in South Texas. The two-lane artery links oil boomtowns like Kenedy and Tilden to the Three Rivers Valero refinery. Local residents call the highway “Death Row.” “Every week someone dies, just about,” says Steve Alaniz, a construction manager based in Three Rivers.

11 – Devon using plastic covers to preserve water used in fracking, Tulsa World, 9/18/2014
http://www.tulsaworld.com/business/energy/devon-using-plastic-covers-to-preserve-water-used-in-fracking/article_3716fe7c-58f4-5cd2-9784-86bc2622b021.html
As oil and natural gas companies continue to expand production during the ongoing drought, companies have increased their efforts to reduce water demand and protect the water they use. Oklahoma City-based Devon Energy Corp. last year began experimenting in west Texas with covering the large pits it uses to collect water for use in hydraulic fracturing, or fracking.

12 – EPA grants extension on power plant pollution plan, Tulsa World, 9/17/2014
http://www.tulsaworld.com/business/energy/epa-grants-extension-on-power-plant-pollution-plan/article_70911041-a5b5-5bd6-81c7-f78c9e833006.html
The Environmental Protection Agency on Tuesday gave the public 45 more days to weigh in on a plan that would for the first time curb the pollution blamed for global warming from the nation’s coal-fired power plants. The agency said it was still aiming to finalize the rules by next summer.

13 - Altered to Withstand Herbicide, Corn and Soybeans Gain Approval, The New York Times, 9/17/14
http://www.nytimes.com/2014/09/18/business/altered-to-withstand-herbicide-corn-and-soybeans-gain-approval.html?_r=0
The Agriculture Department has approved the commercial planting of corn and soybeans genetically engineered to survive being sprayed by the herbicide known as 2,4-D, according to documents it posted on a federal regulatory website on Wednesday.

Some corn and soybean growers have been pushing for approval, saying the new crops would give them a sorely needed new tool to fight rapidly spreading weeds that can no longer be killed by Roundup, known generically as glyphosate, the usual herbicide of choice.

14 - Texas looks for cure to road danger in the oil patch, EE News, 9/18/14
http://www.eenews.net/energywire/2014/09/18/stories/1060006017
Texas highway officials are seeking more funds to repair roads and improve safety as vast swaths of the state cope with increases in truck traffic from the oil and gas industry. Voters statewide will decide in November whether to divert $1.7 billion a year to roads in oil- and gas-producing regions (Greenwire, Aug. 27).

15 - Study finds high benzene levels around shale well tank hatches, EE News, 9/18/14
http://www.eenews.net/energywire/2014/09/18/stories/1060006022
Workers who measure tank levels at shale oil production sites face a unique hazard from benzene and other airborne chemicals, a federal study has found. The study by the National Institute for Occupational Safety and Health (NIOSH), part of the Centers for Disease Control and Prevention, recommends that companies develop ways for those workers to measure the volume of the tanks without opening the hatches.

16- Oil, gas drilling creates money for Texas schools, Beaumont Enterprise, 9/18/14
http://www.beaumontenterprise.com/news/texas/article/Oil-gas-drilling-creates-money-for-Texas-schools-5763506.php
A Texas oil and gas boom fueled by hydraulic fracturing and new horizontal drilling techniques has generated a record $1.26 billion this year to support K-12 public education. The San Antonio Express-News reports (http://bit.ly/1r2AJT0) that the Texas General Land Office released the fiscal 2014 figures on Wednesday.

17- Approval of Texas Flexible Permit ProgramChallenged by State Environmental Groups, BNA, 9/18/14
http://news.bna.com/deln/DELNWB/split_display.adp?fedfid=56462605&vname=dennotallissues&jd=a0f6a3e7b3&split=0
A number of Texas environmental groups filed a petition for review with the U.S. Court of Appeals for Fifth Circuit on Sept. 12, asking the court to review the Environmental Protection Agency's decision to approve Texas's revisions to its flexible air permit program (Environmental Integrity Project v. EPA, 5th Cir., No. 14-60649, 9/12/14).
The groups contend Texas's flexible permit program allows facility operators, even large operators such as refineries owned by Exxon Mobil Corp., Royal Dutch Shell Corp., and Valero Energy Corp., an avenue to skirt requirements of the Clean Air Act.

18- Natural gas alone isn't magic weapon against climate change, Eagle Ford, 9/18/14
http://eaglefordtexas.com/news/id/135192/natural-gas-alone-isnt-magic-weapon-climate-change-2/
Natural-gas wells here can be found just beyond the hedgerows of new subdivisions, and close by the hangars at the municipal airport. Their tunnels extend deep underneath a city park, a golf course and the University of North Texas football stadium. The wells draw from the Barnett Shale, a geological formation once thought too dense to be profitably tapped for energy.

Abandoned Houma shipyard makes EPA Cleanup list

Updated: Sep 18, 2014 5:41 AM CDT

Written by: Jessica Shaw, Reporter - email

(WVUE) - The old Delta Shipyard was added to the Environmental Protection Agency's Superfund Clean-Up list this week.

This means that federal dollars will eventually be used to remove hazardous waste from the site. The state of Louisiana first contacted the EPA on this issue in 2012.

The now abandoned Delta Shipyard shut down in the early 1980's. The 165-acre area was used for cleaning and repairing boats and oil barges. During its time in operation, the EPA says unlined pits were used to dispose waste and oil from those barges.

EPA says those pits contain more than 30,000 cubic yards of hazardous materials, but that waste is contained and remote at this time.

The main kind of contaminates we've found is polyaromatic-hydrocarbons," said Brenda Cook with the EPA. "We found similar contamination in the groundwater and in wetland areas both on and off site."

Polyaromatic-hydrocarbons, or PAH, are known carcinogens. The EPA says they also found arsenic and lead in the wetlands nearby.

EBI is one of many companies near the site.

They told FOX8 over the phone "it has never given us any problems before, but we are glad to see it get cleaned up."

"The next step of what we'll do is a remedial investigation," said Cook. Crews from the EPA will look at the extent of the contamination and do a risk assessment. "We'll come up with a measure of risk on this site."

The EPA says there is no set timeline for the project just yet.

Everything New Orleans

Federal study of Pennsylvania fracking site finds no water pollution

The Associated Press By The Associated Press
on September 17, 2014 at 4:34 PM, updated September 17, 2014 at 4:40 PM

PITTSBURGH (AP) — The final report from a landmark federal study on hydraulic fracturing, or fracking, found no evidence that chemicals or brine water from the gas drilling process moved upward to contaminate drinking water at a site in western Pennsylvania.

The Department of Energy report, released Monday, was the first time an energy company allowed independent monitoring of a drilling site during the fracking process and for 18 months afterward. After those months of monitoring, researchers found that the chemical-laced fluids used to free gas stayed about 5,000 feet below drinking water supplies.

Scientists used tracer fluids, seismic monitoring and other tests to look for problems, and created the most detailed public report to date about how fracking affects adjacent rock structures.

The fracking process uses millions of gallons of high-pressure water mixed with sand and chemicals to break apart rocks rich in oil and gas. That has led to a national boom in production, but also to concerns about possible groundwater contamination.

But the Energy Department report is far from the last word on the subject. The department monitored six wells at one site, but oil or gas drilling at other locations around the nation could show different results because of variations in geology or drilling practices. Environmentalists and regulators have also documented cases in which surface spills of chemicals or wastewater damaged drinking water supplies.

"There are a whole wealth of harms associated with shale gas development" separate from fracking, said Maya K. van Rossum, of the Delaware Riverkeeper group. She mentioned methane gas leaks, wasteful use of fresh water and air pollution, and said the Energy Department study confirms a point that the Riverkeeper has been making: that faulty well construction is the root cause of most problems, not fracking chemicals migrating up through rocks.

A separate study published this week by different researchers examined drilling sites in Pennsylvania and Texas using other methods. It found that faulty well construction caused pollution, but not fracking itself.

Avner Vengosh, a Duke University scientist involved with that study, just published in The Proceedings of the National Academy of Sciences, said in an email that it appears the Energy Department report on the Pennsylvania site is consistent with their findings.

The leading industry group in Pennsylvania said the Energy Department study reaffirms that hydraulic fracturing "is a safe and well-regulated technology." Marcellus Shale Coalition president Dave Spigelmyer said in an email that the study reflects "the industry's long and clear record of continuously working to enhance regulations and best practices aimed at protecting our environment."

The Energy Department report did yield some surprises. It found that the fractures created to free oil or gas can extend as far as 1,900 feet from the base of the well. That's much farther than the usual estimates of a few hundred feet. The Energy Department researchers believe that the long fractures may have followed existing fault lines in the Marcellus Shale or other formations above it.

The department study also ran into problems with the manmade markers meant to track possible long-term pollution. The Energy Department said it was able to track the markers for two months after fracking, but then that method had to be abandoned when it stopped working properly.

Everything New Orleans

New Orleans climate festival on tap Sunday to coincide with march in New York

Bob Warren, NOLA.com | The Times-Picayune By Bob Warren, NOLA.com | The Times-Picayune
Email the author | Follow on Twitter
on September 17, 2014 at 1:23 PM

The Gulf Coast Center for Law and Policy is teaming with other community and civic organizations to host the People's Climate Festival Sunday (Sept. 21) at Armstrong Park in New Orleans. The event is timed to coincide with the People's Climate March event in New York City.

The New Orleans festival, from 10 a.m. to 4 p.m., is free and open to the public. It will include music, art, food and information and activities, organizers said in a news release.

"By holding this event locally in New Orleans, we are showing that we are part of the bigger movement for climate justice and also that we have voice that can't and won't be denied," said Colette Pichon Battle, executive director of the Gulf Coast Center for Law and Policy. "We are spreading the word that climate change is real and it affects us here."

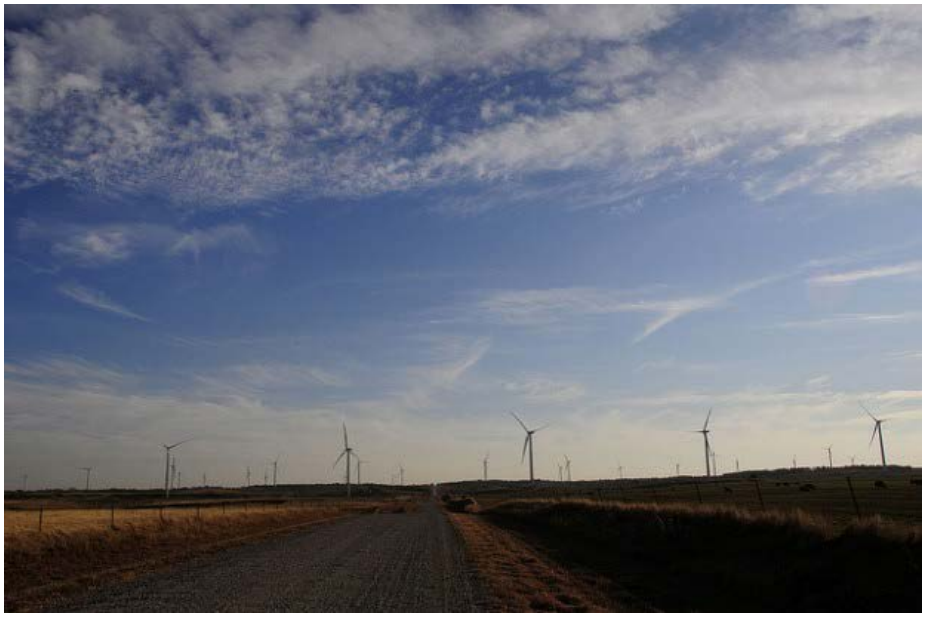
Organizers of the People's Climate March say they want to focus attention on the issue of climate change as world leaders convene in New York for a United Nations summit. The festival in New Orleans will include streaming of the march in New York, the news release said.

In the event of rain, the festival will be canceled, organizers said in the news release.

Oklahoma Oil and Gas Regulator Wrestles With Oversight of Wind Industry

SEPTEMBER 18, 2014 | 6:15 AM

BY JOE WERTZ



MTNEER_MAN / FLICKR

Wind turbines line the horizon near Kingfisher, Okla.

Corporation Commission meetings are usually pretty dull, but the Sept. 11 technical conference on wind energy was standing room only. It was lively — and theatrical.

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When Tammy Huffstutlar of Calumet took her turn at the microphone, she cued up recordings of whirring wind turbines to accompany her testimony.

“I don’t know if you can hear this or not, but this is my life,” she told Corporation Commissioners Dana Murphy and Bob Anthony, who presided over the meeting. “That’s why I’m here talking about property rights and regulation.”

Huffstutlar and her husband live near Calumet in Canadian County. The couple purchased the farm more than 35 years ago. In 2012, Apex Energy’s **Canadian Hills Wind farm** started operating, and the Huffstutlars were surrounded by 11 turbines placed on neighboring land.

The couple has been outspoken about the nuisance of living with that whirring sound and

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flickering shadow of the spinning blades. Tammy says the turbines decreased their property value have aggravated her husband's heart condition.

Expansion, oppisition

Oklahoma was the country's fourth-largest wind power producer last year, **data from the U.S. Energy Information Agency** show. Wind farms are common in the panhandle and western parts of the state, but projects are expanding into northeastern Oklahoma, including areas that have never hosted fields filled with turbines, like **Osage** and Craig counties, where some landowners have mounted vocal resistance.

"We've invested $6 billion dollars in the state of Oklahoma, communities are begging us to come to town," Jeff Clark of the Austin-based Wind Coalition said at the meeting. "Many farmers and ranchers in the state of Oklahoma are struggling to stay on their land. Wind for them represents a huge opportunity."

So far, opponents have had **little success** fighting projects at the city and county level, and the industry's growth has pitted neighbor against neighbor.

Like the Huffstutlars, Jody Harlan also lives in Canadian County — but she's fine with the turbines.

"It's a non-polluting, green source of energy," she said. "We really ought to regulate the energy that's toxic and dangerous to us, not the one that some people just don't like to look at."

'Incompatible'

The wind energy issues currently up for discussion in Oklahoma fall into three categories: siting, notification and decommissioning: where should turbines go, who should know if they're coming and when, and how should they be dismantled.

Siting is one of the most contentious issues.

"To have wind turbines in close proximity to residential housing is not an appropriate and responsible land use," Warren Thomas, who owns a farm that straddles both Cleveland and McClain counties said at the meeting. "Those are incompatible."

Thomas and other residents would like the state to establish setback rules — rules that would set minimum distances between turbines and houses. Cities and counties can set those kinds of rules with zoning restrictions, but statewide setback regulations might prove too intrusive for a low-regulation state like Oklahoma, where officials generally don't like interfering with the energy business.

"People keep thinking we do all these things with oil and gas, and we should regulate like oil and gas," Commissioner Murphy told attendees. "I just hope people understand … there's no law or rule that says how far away that says how far an oil and gas well has to be from a house or a building."

At this point, the meetings are at the "inquiry" level. The Corporation Commission is hosting two more wind-energy meetings this year. A second technical conference is scheduled for Oct. 15; a final hearing will be held in early-December. No formal wind energy rules have been proposed, and it's possible that the meetings won't result in any new framework for industry oversight.

There's also a political component to the wind energy meetings. The Corporation Commission's inquiry was launched at the request of Senate President Pro Tempore Brian Bingman, R-Sapulpa, who authored **Senate Bill 1440**, a shelved measure that would have placed a temporary moratorium on new wind projects in northeastern Oklahoma.

Dismiss His Challenge to Oil and Gas Law

Drought-Stricken Cities in Southwest Oklahoma Look for Water Underground

Regulator Stepping Up Monitoring and Inspections of Disposal Wells in Quake Country

Currently, the Corporation Commission doesn't have the authority to create rules or regulations addressing many of the issues being raised, says agency spokesman Matt Skinner.

The commission can't approve new wind rules — which would still have to be vetted through the standard rulemaking process — until the Oklahoma Legislature grants it the specific authority to do so.

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State Officials: Oklahoma Needs Oil Industry's Help to Meet Water Goals

SEPTEMBER 17, 2014 | 12:23 PM

BY LOGAN LAYDEN

DANIEL FOSTER / FLICKR

Insufficient rains and increasing demand **put enormous pressure** on Oklahoma's water resources both on the surface and underground. But it's also hard to overstate the role evaporation plays in the drought.

The oil and gas industry has been part of the problem, storing tens of millions of gallons of water needed for the hydraulic fracturing process in large, open pits, leaving it to be ravaged by evaporation until the water is needed.

As *The Oklahoman*'s **Adam Wilmoth reports**, the Oklahoma Water Resources Board's J.D. Strong says the industry has to change its ways "to help the state meet its **Water for 2060 goal** of using no more water in 2060 as was used in 2012."

> *"All the things the industry can do to use every drop of water as wisely as possible will certainly help the state further that goal," Strong said. "Anything that can be done to reduce or eliminate evaporation, especially the further west you go, would be an extremely valuable asset."*
>
> *In some parts of western Oklahoma, Texas and the desert Southwest, more water is lost to evaporation each year than can be replenished with rain, Strong said.*

Oklahoma City-based Devon Energy Corp. is taking a new approach to addressing the evaporation issue: it's covering its water pits.

> *In one area of the Permian basin, Devon has covered 24 of its 39 water pits. The company is considering implementing the technology in western Oklahoma as it expands operations in the area.*
>
> *"We were struggling to come up with the water to meet our fracking demand," [Tim Raley, senior superintendent for Devon's operations in its east Permian Basin area] says. "We didn't want to lose any of it to Mother Nature."*

It's the kind of move state water officials want to encourage, but covering water pits is by no means cheap, costing hundreds of thousands of dollars each according to the paper. However, Devon Energy can take solace in the millions of dollars it will save in the long-term.

> *The covers cost $150,000 to $350,000, depending on their size, but pay for themselves in*

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Attorney Asks Oklahoma Supreme Court to

just two to four months, [Raley said].

The pits hold 12 million to 30 million gallons of water. By reducing evaporation, each cover can save 4 million to 10 million gallons of water per quarter, Raley said.

"It saves a lot on our water demand. If we could save that from evaporation, it's money in our pocket."

In this case, conservation is good not only for the state's limited water resources, but for Devon's bottom line as well.

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Iberia Parish man's backyard project restores wetlands

ADVOCATE BUSINESS STAFF REPORT

An Iberia Parish wetlands consultant and his do-it-yourself wetlands-restoration project are profiled in a story in The New York Times.

"Come the weekend, some people golf. Matt Conn restores his wetland," the article says.

In 2010, Conn bought about 65 acres from a landowner who planned to grow sugar cane on the protected wetlands. State and federal environmental regulators intervened and ordered the wetlands restored. Conn was brought in as a consultant, and the landowner decided to get rid of the headache by selling.

Conn's work included restoring the tidal flow of water to the property, planting cypress saplings, leveling upland fields and replanting them with native prairie grasses, and planting the bottom of ponds with widgeon grass so ducks and blue crabs have feed.

HOUSTON CHRONICLE
SCIENCE & ENVIRONMENT

Lawmaker wants EPA to consider cost of new smog limits

By Matthew Tresaugue

September 17, 2014 | Updated: September 17, 2014 8:08pm

A Texas lawmaker on Wednesday introduced a long-shot bill to force the Environmental Protection Agency to consider cost when setting nationwide limits for smog, or ozone.

The bill by U.S. Rep. Pete Olson, a Sugar Land Republican, comes as the EPA considers ordering deeper cuts for the lung-irritating pollutant, which has fouled metropolitan Houston's air for decades.

Olson said the bill, called the Clean Air, Strong Economies Act, has bipartisan support but is unlikely to advance through Congress before the EPA proposes new smog limits in December. But the legislation likely will gain traction next year, particularly if Republicans gain control of the Senate, Olson said.

That's because the new ozone standard could be so restrictive that most of the country, including some national parks, will be out of compliance, said Olson, who sponsored the bill with Rep. Bob Latta, an Ohio Republican.

A tighter ozone limit "will hit all of America," Olson said.

The bill would amend the federal Clean Air Act, which prohibits the EPA from considering cost or difficulty of attainment when it sets a pollution standard. The agency weighs expense and other factors while developing strategies for achieving the limit.

An advisory committee of independent scientists has recommended that the EPA pursue the toughest standard for ozone to date. The panel concluded that the current limit of 75 parts per billion - set in 2008 - is not strong enough to protect people from lung damage, asthma attacks, heart attacks and early deaths.

The study, which adds to a growing body of research on the health risks of smog, calls for a limit as low as 60 parts per billion and no higher than 70 parts per billion.

Wherever the EPA sets the new standard, it would be felt across Texas. A stricter limit would force several places with air now labeled as clean to find ways to reduce smog. The list of would-be violators includes Austin, Corpus Christi and El Paso, as well as Big Bend National Park in far West Texas, some 300 miles from the closest big city.

Ozone is formed when pollutants from tailpipes and smokestacks bake in the sunlight. Houston, in particular, is a prodigious smog factory because of its commuting culture, heavy industry and climate. Even some environmentalists say the lowest possible standard may be impossible for the eight-county region to achieve on a consistent basis.

"Improving air quality is a good goal," Olson said. "But let's balance the goal of improving air quality with the economic costs of achieving it."

The U.S. Chamber of Commerce and several industry groups backed Olson's bill, saying a new, more stringent standard would require unnecessarily expensive changes in operations and lead to job losses.

Michael Catanzaro, who managed the EPA's regulatory policy under the George W. Bush administration, said the rule could be the most expensive in history. The regulation would require oil and gas companies and others looking to expand in Houston and other smog-bound places to invest in costly pollution controls in order to receive permits.

"That's going to impose pretty significant costs and delays in getting things done," Catanzaro said.

Industry groups have raised the issue of cost since Congress adopted the Clean Air Act in 1970, but their complaints haven't led to changes in the federal law, said Thomas McGarity, a law professor and expert on government regulation at the University of Texas at Austin.

"The goal (of the Clean Air Act) is to protect public health," he said. "We don't sacrifice the goal because of the difficulties getting there."

Jennifer A. Dlouhy contributed to this report from Washington.

Drilling on Kirtland wells to start in 2015

John Fleck / Journal Staff Writer

ALBUQUERQUE, N.M. —

The Air Force unveiled a proposal Wednesday to begin drilling wells in 2015 to try to intercept groundwater contamination from a Kirtland Air Force Base fuel spill before it can reach Albuquerque municipal drinking water wells.

In all, the proposal calls for eight new cleanup wells to be operating by August 2016.

But a top Air Force official acknowledged that the first of the wells will not be installed until mid-2015, missing a December deadline to get that phase of the work completed. “We will not be achieving that goal by December of this year,” Deputy Assistant Air Force Secretary Mark Correll told members of the Albuquerque Bernalillo County Water Utility Authority board.

Correll and other Air Force officials spent Wednesday explaining their proposal to members of the state’s congressional delegation and Albuquerque city and county officials before making their first public presentation of the plans at Wednesday’s water utility authority board meeting.

In a statement, Rep. Michelle Lujan Grisham, D-N.M., said the meeting with the Air Force gave “a better indication that the Air Force is planning to take more immediate steps to address the fuel spill.” But her statement made clear that the service has work to do to win public trust for the process. “Without a robust effort and a significant and effective plan to clean up the spill, the Albuquerque community has lost faith in the Air Force’s willingness to address the problem,” Lujan Grisham said.

The Air Force also got a mixed reception from water utility officials, who have long complained about slow progress in dealing with the decades-old spill.

Correll said the new wells were intended to halt the spread of the contamination while the Air Force works on future plans to deal with the heart of the multimillion gallon fuel spill beneath the base and adjacent neighborhoods of southeast Albuquerque.

“Our goal is to ensure that the drinking water in Albuquerque is never contaminated,” Correll told the water utility authority board.

Water utility chief executive Mark Sanchez said the agency supported the new proposal, which reflects an approach to the cleanup that the water utility has long been asking for. But Sanchez said he was frustrated by how long the cleanup was taking. “We want the timeline to be much quicker,” Sanchez said.

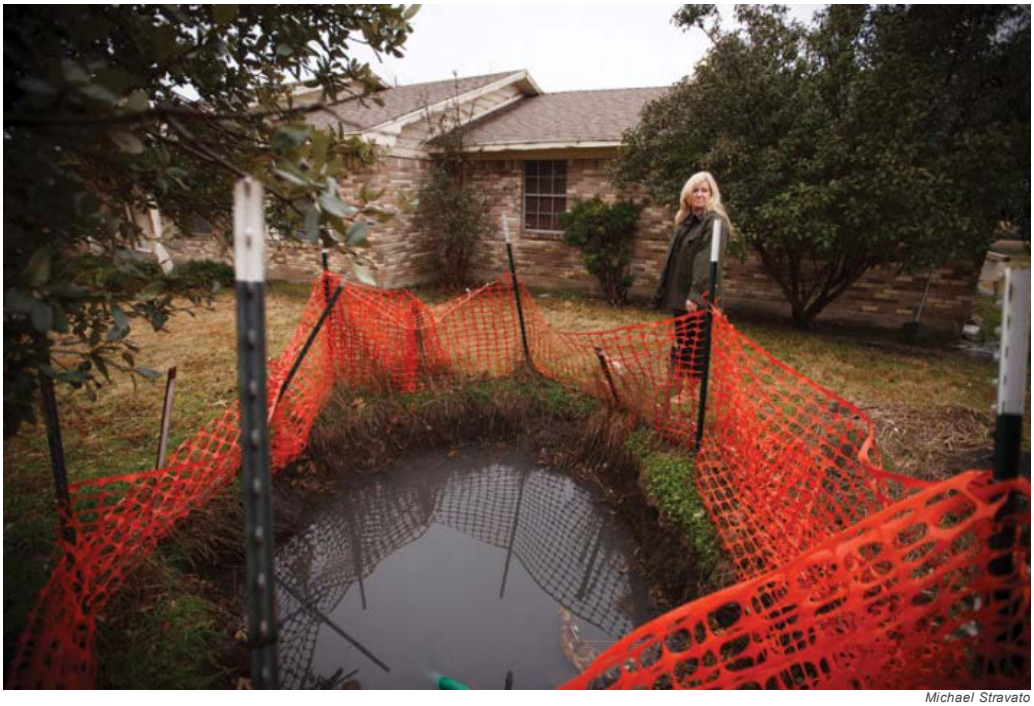
The spill was detected in 1999, and water utility board member Rey Garduño expressed frustration at how long it is taking to clean it up. Garduño, an Albuquerque City Council member who represents the neighborhoods affected, said his constituents are frustrated. “Nothing gets done,” Garduño said.

New Mexico Environment Secretary Ryan Flynn responded that a new Air Force team brought in this summer has begun moving on new, more aggressive cleanup efforts. “We’re starting to see progress,” Flynn said.

Crossing the Line

When the Keystone XL pipeline came through Lori Collins' farm in Paris, Texas, she welcomed it—until her house flooded with sewage.

by Saul Elbein Published on Wednesday, September 17, 2014, at 8:00 CST



Michael Stravato

Lori Collins in front of her house.

The trouble for Lori Collins and her family started the day in early October 2012 when a backhoe plunged into the earth. Lori walked outside her farmhouse, in the East Texas bottomlands south of Paris, to see that her septic system had been torn from the ground to make way for a pipeline. She saw the piping scattered in the dirt on the side of a great trench—the future home of the controversial Keystone XL pipeline, which could eventually stretch from northern Alberta, Canada, to the Texas Gulf Coast, carrying diluted bitumen to refineries that will transform it into crude oil.

TransCanada Corporation's construction of the Texas section of the Keystone pipeline has been met with angry protests from environmentalists and some landowners. But the Collins family, and Lori in particular, was happy to see the pipeline come through their property. The money was good, but there were personal reasons, too. Big-haired, blonde and brassy, Lori grew up as the only daughter in a family of oilfield workers. In the TransCanada contractors she saw a reflection of her two brothers, pipefitters who lived their lives as nomads on various lines across the country, working hard and living hard. (One of her brothers died from a gunshot in a hotel room in Oklahoma, where he was working on a pipeline project. The crime was never solved.) So when the work crews arrived she drove out to the pipeline easement in her Suburban and, during the day—while her children were at school and her husband, J.B., was out in the fields—she fed them home-cooked beans, cornbread and cobbler. When the worker-safety supervisors yelled at them for letting a civilian without protective gear onto the construction site, they scrounged her up a flame-retardant jumpsuit and TransCanada helmet.

Then came that October day in 2012 when Lori walked outside to find considerable damage to her septic system. Like many rural families, the Collinses pumped their sewage to a central tank, and from there it went into smaller pipes that drained waste into their fields. It was these lines, which drained into the fields, that TransCanada had ripped from the ground to clear the pipeline route. So Lori went to the construction site and found a supervisor. She showed him the damage; he promised that he would tell his supervisor and that they would fix it promptly.

So perhaps it's a potent metaphor for the project that for a year and a half, TransCanada left a

family inundated in its own shit.

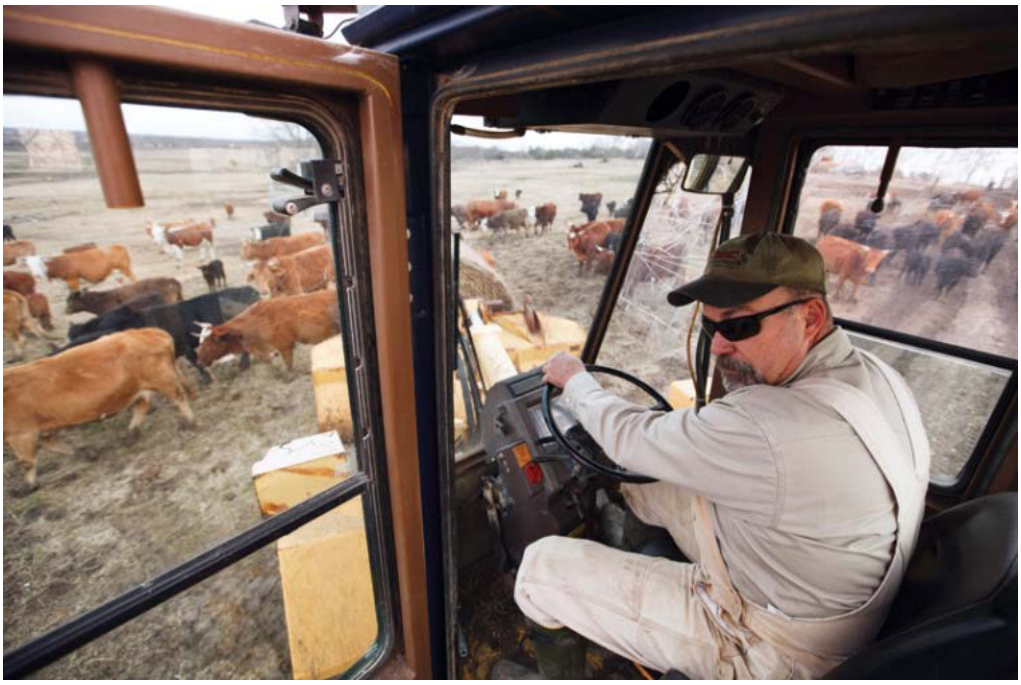
Lori was not, at that point, too concerned. TransCanada owns more than 42,000 miles of oil and natural gas pipelines that spread across the continent from Canada to Mexico, crossing the land of thousands of private owners. In promotional videos and media statements, TransCanada's representatives tout their devotion to landowners. The company line, repeated in press and ad copy, is that people like the Collinses are "not just landowners, they're valued neighbors." The company even produced a series of promotional videos showing farmers and TransCanada land agents walking through rolling fields of grain: pipeline easements, lovingly restored by the company. The series is called "Good Neighbors."

During the next two years, that "Good Neighbors" line would become, for Lori Collins and others like her, a bitter joke. A few days after her family's septic system was destroyed, construction crews piled all the dirt they had dug up on top of the remaining pipe, the one draining the Collinses' septic tank, effectively plugging it. The family watched helplessly as raw sewage flooded back into the house, soaking the carpets and walls and leaving black mold in its wake. For a year and a half—as their foundation slid toward the growing fetid lake of sewage in their front yard, as they got sick, as disposing of their own waste became a daily problem—the Collins family relentlessly and unsuccessfully tried to get someone to fix the damage. "We trusted them," Lori Collins told me. "That was the biggest mistake we ever made."

For the last four years, the country has fought over the future of the remainder of the Keystone XL pipeline. Much of the national political debate over the Keystone XL—and whether the Obama administration should grant the pipeline final approval—has centered on the project's impact on climate change (extracting and burning the Alberta bitumen will unleash an enormous amount of carbon into the atmosphere). But there's been another fight, happening all along the planned route, over what damage the pipeline and its contents will do to the land and, more important, the extent to which TransCanada can be trusted to repair it. To these questions, TransCanada has said, essentially: Trust us. Another common company talking point: "It'll be the safest pipeline ever built on U.S. soil."

And so the question of how TransCanada has treated the places where it has actually gotten to build its pipeline—mostly in Texas and Oklahoma—should be very relevant to those parts of the country where the pipeline is still being debated. In East Texas, where the pipeline is finished and functioning, the company has operated with feudal disregard for property rights, driving once-sympathetic landowners into the arms of the growing network of anti-Keystone activists.

So perhaps it serves as a potent metaphor for the project as a whole that for a year and a half, TransCanada left a family inundated in its own shit.



Michael Stravato

J.B. Collins rolls out hay for his cows on his property near Paris.

J.B. and Lori Collins met on the dance floor of a bar in Paris, Texas, in the early 1990s. Lori was new in town, having come to Paris in the wake of a bad marriage in Fort Worth, looking for a new start. One night she saw J.B. across the dance floor. Tall and quiet, J.B. had fled the oil bust of the early 1980s for construction jobs up and down the East Coast, then had come back to join his father working the family farm. Lori sent a friend to invite him over to dance. But Lori was in high demand that night, twisting across the floor with other men, and J.B. couldn't get close. He left with a sense of disappointment. When he saw her again, a week later at a Chinese restaurant in town, she was having dinner. He marched up and asked for that dance. They met at the same bar a few days later, and two years after that they were married.

They moved into a farmhouse that J.B.'s grandparents had built. For Lori, who grew up in a broken home, and whose first marriage had been a failure, the house became a refuge. "It was the first home I ever had," she said. And for a long time,

things were good, even idyllic. J.B. grew hay and raised cattle and mined gravel from the North Sulphur River, which traversed their property. Lori kept house and cooked. They had two kids soon after getting married, and Lori became a self-described “super PTA-mom.”

The company line, repeated in press and ad copy, is that people like the Collinses are “not just landowners, they’re valued neighbors.”

What the Collinses didn’t know then was that their lives were about to be changed by the decisions of powerful men thousands of miles to the north.

In the mid-2000s, rising oil prices and new extraction technologies combined to bring a boom to the bitumen mines of the Athabasca, in northern Alberta. Bitumen is a petroleum product, like road tar, that can, with a great deal of effort and energy, be converted to synthetic crude oil. Suddenly northern Alberta was a flurry of work and investment, sucking in capital from as far away as Norway and China.

Northern Alberta is remote, and the bitumen was trapped in the center of the continent. For those investments to pay off, the bitumen had to get to market. In boardrooms in Calgary and Edmonton, oil executives drew up competing pipeline plans to move the bitumen to refineries.

TransCanada’s Keystone XL was just one of these plans. The route the company finally submitted to the U.S. Department of State for approval sliced through the middle of the country on its way to refinery complexes on the Texas Gulf Coast—complexes that had already spent $20 billion upgrading to handle bitumen. The planned route cut straight through the Collinses’ land.

In 2010, the first land agent came to the Collinses’ house to secure their property for the pipeline easement. The Collinses were pleased to hear a pipeline was coming through because, aside from all the usual arguments about boosting North American energy independence, it meant easy money. In the early negotiations, J.B. tried to sell TransCanada *more* land for temporary work space. As they sat around the kitchen table, the agent showed them the pipeline route.

And that’s when they saw it: The route crossed right through their septic system. When they brought this up, Lori says, the agent said there was nothing they could do. That was the way the engineers had laid the route, and no one could change it. “But [the agent] promised that anything they tore up in that right of way, they would come out and fix it bigger and better,” Lori said.

Thus mollified, the Collinses agreed to the route. Not that they had much choice. To outside appearances, those three people sitting around the kitchen table were having an actual “negotiation,” with the land agent there to sell the Collinses on the pipeline, to win them over to the project. To outside appearances, the Collins family could have said no.

But TransCanada, like all oil pipeline companies doing business in Texas, had the ultimate trump card: eminent domain. At any time, the company could go to court and take whatever route it wanted. The law required TransCanada to pay fair market value for the land, but that was all—landowners had no say in where the pipeline was going to go.

That meant there was nothing forcing TransCanada to cut deals with landowners. Those who wanted a different route, or a different price, or a different contract, had no option but to take to court a company that earned $1.6 billion in 2013. That’s a staggeringly expensive proposition. David Holland, a prosperous Beaumont trial lawyer, has already spent more than $150,000 challenging TransCanada’s taking of his land by eminent domain. Obviously, few ranchers could afford to do that, which is why, Holland’s lawyer told me, there’s so little litigation against the company. “Most people do the best they can with whatever offer they can get,” he said.

The land agent at the Collinses’ house worked on salary, not commission. She had no incentive to sell them on the pipeline. She didn’t need one, because she hadn’t been sent to persuade. She had been sent to say: This thing is coming. Best get on board before you get crushed.

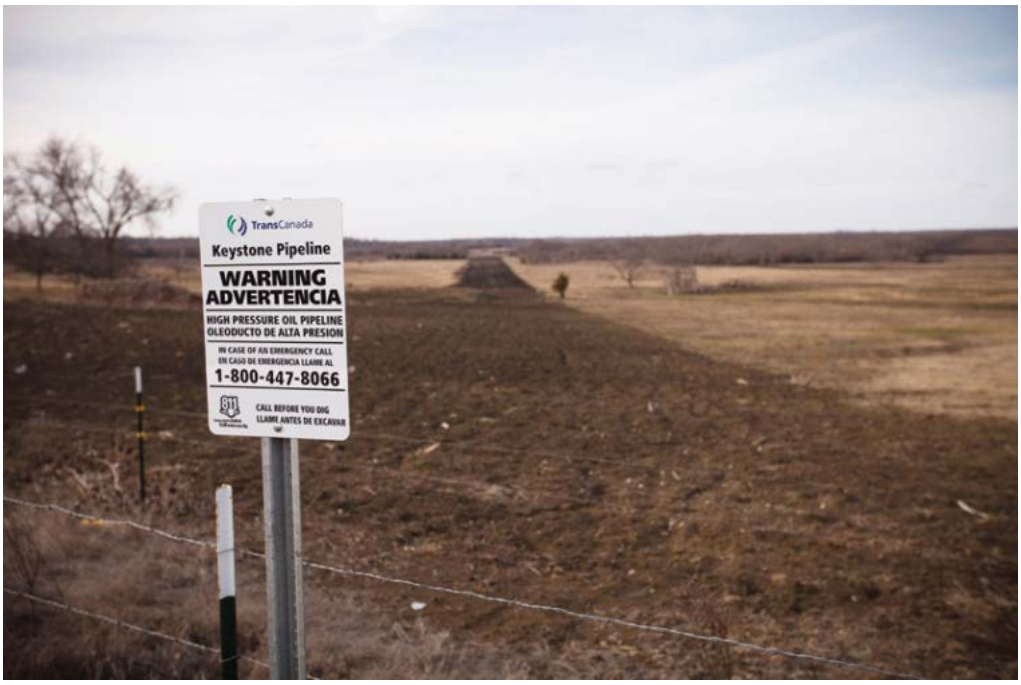
The Collinses’ subsequent dealings with land agents reflected that unwillingness to compromise. At first, the agent offered the Collinses $72,000 for the easement and temporary workspace. The family asked to think it over but heard nothing for six months. Then suddenly there were two new land agents at their door. The new agents said the old one had been moved down the line and that the original offer had been far too high. The best TransCanada could offer was $40,000. When the Collinses pushed back, the response wasn’t subtle. “They said, ‘Look, we tried to work with you,’” J.B. Collins recalled. “‘If you won’t be reasonable, they’re going to take you to eminent domain. They’ll make an example of you. You’ll get a lot less money.’” The Collinses went back and forth with the land agents until they received a letter in the mail summoning them to an eminent domain hearing. “We were gutted,” Lori says. “We thought we were still negotiating, and they just took [the land].”

The family didn’t bother to get a lawyer. “The lawyers they had were bigger than any lawyers we could buy,” J.B. said. The one lawyer he talked to in Paris said that if they tried to fight, TransCanada would “drain us dry” on legal fees and then take the property anyway. He advised that if they’d been offered any money at all, they might as well take it.

At the hearing at the Paris courthouse, the TransCanada lawyer lowballed them. He asked the jury to grant the Collinses just $8,000 for the land the company was taking.

But J.B. and Lori were lucky. The first land agent had written the offer for $72,000 on a piece of paper. When the Collinses submitted it, J.B. said, the TransCanada lawyer went ashen. “He said, ‘Well, I didn’t know about that,’” J.B. said. “‘Can we knock it down to $70,000, so I can show my bosses I did something, and then we can all get out of here?’”

The Collinses left elated, feeling like they had won. They went home and waited for the project to start.



Michael Stravato

Bare soil above the buried Keystone XL pipeline where it crosses the Collinses' cattle pasture.

What the Collinses would discover was that TransCanada, practically speaking, was not building the pipeline.

It helps to think of the company less as a pipeline operator and more as a management corporation presiding over a bewildering array of subcontractors. If you think of it as a feudal arrangement in medieval Europe (or on HBO's *Game of Thrones*), with a remote lord sending vassals to do his bidding, you wouldn't be far off. TransCanada employees didn't dig trenches or lay pipe; they contracted that work out.

So when that backhoe blade had its fatal appointment with the Collinses' septic system—as it had been clear for two years that it would—and Lori went out looking for someone to fix it, she was dealing with TransCanada's contractors. The land agents who had come to sign up the Collinses worked with Universal Field Services (UFS), out of Oklahoma. The construction workers came from Michels Corp., out of Wisconsin. There were safety inspectors from UniversalPegasus and Quality Integrated Systems. There were surveyor contractors, security contractors, all separate companies, all doing different jobs, all sharing (or not) information among themselves through a confusing chain of command.

"You all are screwed. The company is going to take your land, promise you everything in the world, but they won't come through."

While these workers wore TransCanada uniforms and helmets, they didn't work directly for TransCanada. The Keystone XL project could be thought of as a giant anthill, each ant doing its job, none with any view of, or power over, the grand design. There was no great guiding hand making sure that things happened, no one with whom the buck clearly stopped.

This was a problem for people all along the route. Mark Brantley, a county commissioner in Delta County, where the Collinses live, told me he had spent a year trying to get TransCanada to fix a county road near the Collins place that heavy trucks had damaged. He found it impossible. Land agents he was working with kept disappearing; the ones who took their place didn't know the situation. One agent suggested the county pay for the repairs and have TransCanada reimburse them. Only when Brantley started threatening to take repair costs out of the bond that TransCanada had filed with the county would he get his calls returned. "No one wants to say that I am the person that you need to deal with, I'll make this happen for you," he said.

The amorphous structure left the Collinses in an uncomfortable bind, watching workers mill around busily while their problems were ignored and their house fell apart.

Rendered as a list, the story reads as black comedy:

A few days after the backhoe tore out their septic system, the Collinses' toilets began taking longer and longer to drain. Lori reported this to a supervisor. He told her that the septic damage had nothing to do with her toilets.

A month after the damage, the day before Thanksgiving, the septic system backed up through the bathrooms and the laundry room drain, flooding half the house with fetid brown water. Lori was cooking for the family, and when she saw the rising water, she laid down in bed and cried in sheer frustration. She and J.B. soaked the sewage up with heavy quilts and a wet-dry vacuum and dumped it outside. They held a last-minute Thanksgiving dinner at a friend's house.

The next week, the house flooded again. The Collinses called TransCanada's help line; the company sent another backhoe operator to dig out the end of their septic system. This brought the Collinses a few days of relief but also opened a reeking pool in their front yard, which Lori sardonically calls "my dogs' swimming pool." To keep the dogs out,

construction workers covered the hole with plywood. This remained, the Collinses said, the only help they got from anyone on the project.

The larger problem, a safety inspector finally explained to the Collinses in December 2012, sometime after the second flood, was a sort of construction catch-22. The workers couldn't repair the septic system because it was under that big pile of topsoil. They couldn't move the topsoil because there was no space left on the easement or temporary work site they had purchased from the Collinses to put it. They couldn't move off the work site because they hadn't done an environmental impact statement, which would have been required before performing work on additional land. The inspector asked the family to be patient. Once the pipeline was installed and the topsoil shoveled back on top of it, he said, their septic system would be fixed.

So they waited. As Lori told me, over and over, "We trusted them." The Collinses had a complicated, intimate relationship with the oil and construction businesses. They knew the industry well enough to know its warts, to know that sometimes bad things happened. They could be patient.

And so they began a ritual of daily sewage management unfamiliar to most people in the developed world. At the beginning of 2013, J.B. Collins bought a water pump and the family began pumping sewage from the clogged septic system into the fields. If they pumped it daily and were careful with how they used water, they could use their drains and toilets. And a quarter-mile down the road was J.B.'s father's house, where the old man was slowly dying of cancer. The bathrooms there worked fine, and Lori would send the kids there to use the toilets after they came home from school.

Most days, they could manage. But one mistake—a carelessly timed toilet flush by one of the kids while Lori was running the wash—and brown water would start bubbling out of the drains. They began to plan their entire day around the septic system. They became reluctant to venture too far from home, or to leave the house unattended. Lori stopped going to her kids' sporting events. She couldn't risk it.

"It was like having an 800-pound gorilla in the back yard," J.B. said. "Before you do anything, well, you got somebody back there—that messed-up septic system—and you wonder, what're you going to do about it today?"

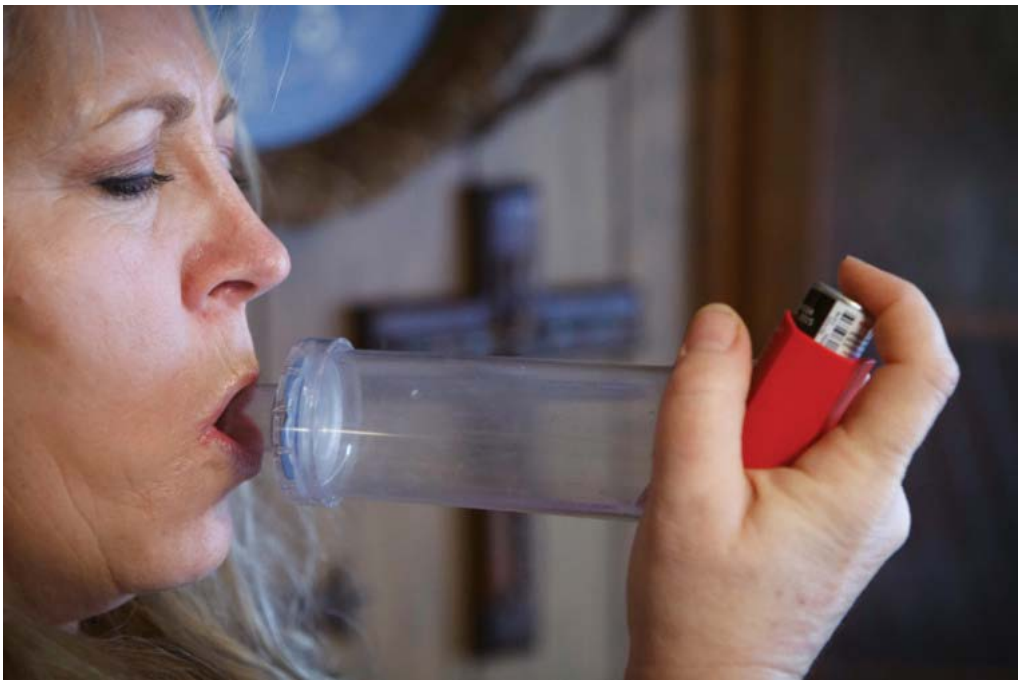
At the end of January 2013, the Keystone XL was installed and the pile of dirt on top of it had vanished. The workers Lori had cooked for moved on down the line. "I about danced in the yard," Lori said. She expected that finally the septic system would be fixed quickly.

But then, J.B. said, a week after the construction was finished, a Michels Corp. land agent inspected the damage. He pointed to where the hoe had pulled piping from off the easement. He told J.B. they were only responsible for damage *on* the easement. In frustration, J.B. called the agent's boss, Mike Brouillette. "I expressed my frustration on how Michels and TransCanada kept avoiding dealing with the problem of repairing our septic system," J.B. wrote me. "Mike told me he had just left the office but he would contact [me] the following Monday."

Every time J.B. called from then on, he got Brouillette's voicemail. J.B. never heard from Brouillette again.

Certain messages, though, got a response. At one point, during difficult negotiations over a valve site TransCanada wanted to install, Lori, in something of a snit, lost her temper. At that moment, 100 miles south in Winnsboro and Nacogdoches, protesters from the Tar Sands Blockade were locked to construction equipment in the path of the pipeline. "I said, 'I could make a call and have [the protesters] come up here,'" Lori said.

The next day, a security guard—an off-duty constable hired by Michels Corp., the construction firm—showed up. The guard told Lori that protesters were coming "in busloads." They laughed and waited for protesters who never came.



Michael Stravato

Lori Collins uses an inhaler to address respiratory problems that began after mold appeared in her home.

The next six months passed in a repetitive cycle—the Collinses pumping out their sewage, asking for help and being promised remedies that never arrived. Their lives changed. They had been entertainers; now they stopped inviting people to their house. Their kids were too embarrassed to invite friends to a house that smelled like sewage. Through it all they waited.

As they waited, their house and property fell apart around them. The foundation slid toward the sewage pool in their front yard. The pipeline easement remained a black scar across their land where nothing grew except weeds, which then spread to the cropland next to it. Construction trucks tore up their roads. Worst of all, inside their walls black mold was blossoming. Lori, who spent the most time in the house, started to have asthma attacks and migraine headaches. But everyone in the family was affected.

It wasn't just the septic system so much as a dozen other small indignities that made the Collinses feel, as Lori said, "like the land wasn't even ours anymore."

There were the contractors trespassing on their land and the trucks rumbling down their private roads. Workers were on their land seven days a week, leaving gates open, letting cattle out. Then there were the guards. TransCanada and Michels Corp. had hired entire sheriffs' departments to work as security, protecting the equipment from thieves and activists. Security is a common part of construction, but the off-duty cops patrolling the Collinses' land made them feel like they were on occupied territory. Uniformed police posted up on the valve site above their house. The feeling got worse when uniformed off-duty cops twice detained their son, once on their property, once on a public county road.

Under the pressure, the Collinses, to their horror, found themselves changing. "I feel gullible now," Lori said. "I don't want to think, every time I meet someone, deal with someone, that I have to think the worst of them all the time. Now my son has said to me, 'Mom, why do you always think the glass is half empty now? Why do you always say you can't trust people?' I hate that my son says that about me now. And I have [TransCanada] to thank for that."

With the number of different players, it wasn't clear who was responsible for any of this. But by June 2013—about eight months after the initial damage to the Collinses' septic system—word of the Collinses' situation reached Calgary, Alberta, and the office of Andrew Craig, TransCanada's Nebraska-born senior land agent, the head honcho of all things landowner-related.

Craig told me that, as he had understood it, the Collinses' situation had been "non-critical. If they hadn't been able to flush their toilets," he explained, "then that would have been critical." But since J.B. Collins had been willing to keep pumping out the septic system until TransCanada could fix the problem for good, Craig had kept the situation on the back burner.

It's impossible to know, of course, what Craig had been told by the people under him. For his part, Craig told me that the reason that TransCanada had routed the Keystone XL across the Collinses' septic system was because the family had asked it to, hoping to save a copse of pecan trees. When I ran this by J.B. Collins, he snorted. "He's all screwed up," he said. "We don't have any pecan trees near the line. There were some trees we wanted to save, but they took them."

Finally, in October 2013, more than a year after the septic system was first damaged, Derek Montgomery, a bona fide TransCanada agent, met with the Collinses. By then, the Collinses didn't even live in their house anymore. They had found out about the mold shortly after the death of J.B.'s father. They took his house off the market and moved into it in a rush, leaving almost all of their possessions behind in the old house.

The Collinses gave Montgomery an estimate of a little more than $40,000, which would have covered all the damage to the septic system, the drywall and carpets, the land and roads. At that point, they still thought the mold could be

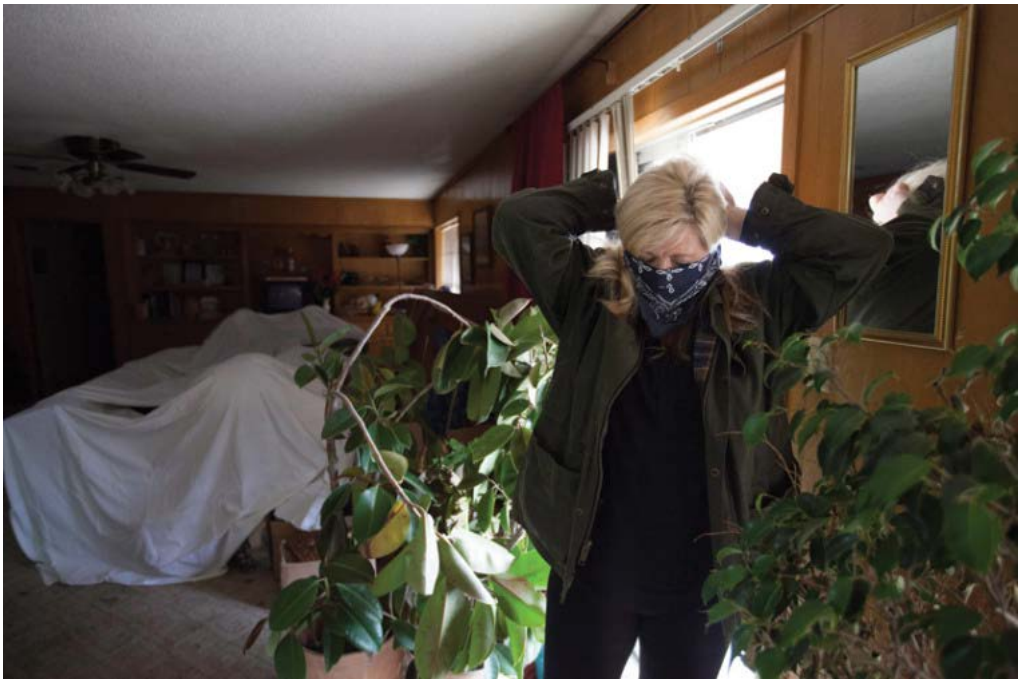
controlled. At first, the Collinses said, Montgomery balked at that number. But then they took him to the house to see the crooked floors, the bowed facade, the sewage pool. As Lori tells it, he walked back to one of the UFS guys to ask him, “This is supposed to be a [expletive] finished product?” Then he turned back around and told Lori that TransCanada would pay the full claim.

Lori cried on his shoulder in pure relief. “I asked him, ‘How can I trust what you’re saying, with everything that’s happened?’ He said, ‘Well, I didn’t know about all this. But I am going to take care of it.’”

He and J.B. Collins stood in front of the house and shook on the deal, and then Montgomery got in his pickup and drove off.

But of course things didn’t end there. Two days later, J.B. was out plowing when Hank Waldrop, one of the UFS agents who had spoken with Montgomery, drove up. He told J.B. that Andrew Craig, the head TransCanada land agent, had rolled back the offer to about $30,000. “But we shook,” J.B. remembers saying in disbelief. “I’m sorry,” Waldrop told him. “But if you want more, you’re going to have to take TransCanada to court.”

This was the final straw for the Collinses. “At that point,” Lori said, she realized that “they were just going to give us crumbs. ‘Just go ahead and take what we give you and be glad.’”



Michael Stravato

Covering her mouth and nose to keep from inhaling mold, Lori Collins enters her home to retrieve her son’s athletic shoes for school.

It wasn’t just the Collinses who felt that way. As TransCanada’s network of oil pipelines has spread throughout the country, landowners on the Keystone system from Texas to Canada spoke of land men who bullied them into signing easement agreements with threats of eminent domain or bait-and-switch contracts; of contractor work crews who trashed their land and roads; of having to fight the company to get anything fixed.

“The runaround is common,” Brian Jorde told me. Jorde is an attorney with Nebraska’s Domina Law Group, which has played a key role in the fight to keep the Keystone XL out of that state. Through its work representing Nebraska landowners, the Domina group has repeatedly come up against the same problems that the Collinses saw. “What’s happening in Texas is a warning for everyone in the north,” Jorde said.

That conduct has led to organized resistance along the route. In Texas, it took the form of open confrontations in which protesters locked themselves to construction equipment or—in one well-publicized instance—suspended themselves from treehouses in the path of the pipeline. The protesters were young urban activists, but they acted with the permission and support of landowners like the Collinses: people who felt like they had been shafted by TransCanada and wanted to strike back.

“I feel gullible now. My son has said to me, ‘Mom, why do you always think the glass is half empty now?’”

The protests in Texas were part of a larger movement that spidered up the pipeline route. At the center was Nebraska, where a coalition of farmers and environmental activists have fought a multipronged legal and public relations battle that has, so far, kept the Keystone XL out of Nebraska.

Over and over along the route, in conversations with landowners about TransCanada, I heard variants of, “Excuse me, but I thought this was America.” There’s a certain way that Americans—specifically white, landowning Americans—are used to being treated by corporations, and while it may not have broken the law, TransCanada didn’t treat people that way.

While the landowners' concerns differ, there is one thing they all share: the impotent rage Lori referenced when she talked about "giving us crumbs." Not only can they buy your land for a pipeline without negotiation or even consent, but then they can do whatever they want with it. If they trash your land or your home, and if you want to do anything about it, you have to sue them.

TransCanada's people never really seemed to understand that rage. They still don't. Company men like land agent Andrew Craig contend that they're providing a service, they've always followed the law, and they're doing their best to make landowners happy.

"If people have to spend an undue amount of time dealing with our project, we try to make that right with them," Craig told me, in reference to the Collins case. "With a thousand landowners, 99 percent are going to be real easy to get along with, we can put the property back to a condition they're happy with, we'll get these people back to whatever it takes. But there's a small group like that who sometimes look at a project like this as an opportunity to get a lot of income."

After Craig said that there was a long, awkward silence on the line. I imagined his press handler kicking him under the table. Craig hastened to tell me that he didn't think the Collinses were in it for the money. "But there are some landowners in the area opposed to Keystone, use of fossil fuels, use of eminent domain," he said. "And I see trends in areas where you have outspoken project opponents who try and rally the troops. And whether you have that here I don't know, but we certainly see that."

TransCanada is, in other words, a victim of the greedy and the ideologically opposed. I have little doubt that Craig believes this, although it strains credulity to think that what motivates people to sue or fight TransCanada is greed. Given the amount of money it costs to sue the company and the track record of those who have tried, that would be a stupid bet indeed.

But the outside-agitators line helps explain why, as resistance has grown, TransCanada and its subsidiaries have so often responded with force. There were the high-dollar lawyers at every county zoning hearing in Nebraska where farmers tried to apply zoning regulations to the pipeline. There were the protests outside Nacogdoches, where uniformed police working for TransCanada broke up protests with pepper spray. There are scattered stories along the route of men in trucks stopping passers by on public roads who, like the Collinses' son, came too close to the pipeline route. The company even briefed the Nebraska State Police and FBI on the activists who led the actions in Texas and on "aggressive/abusive landowners" in Nebraska.

Then there was the spying on activists. About 30 miles north of the Collins place is Julia Trigg Crawford's farm. Crawford's story sounds like the Collinses', minus the sewage. She had just moved up from Houston to take over her dad's farm when she was threatened with eminent domain. Crawford family members were so scared they tried to sign off on an easement, but the clock had run out. TransCanada took the land and Crawford became an implacable opponent of the project, taking a suit against TransCanada (funded largely with small donations) as far as the Texas Supreme Court.

Ever since Crawford has become active, there have been off-duty cops at the valve site across the street from her house. In and of itself, this is not suspicious—it is often cheaper for companies to pay a guard $30 an hour than to continuously replace stolen diesel and batteries. But one of the off-duty cops—whom Crawford won over after months of diligently taking him coffee and kolaches—told me that around the time of the most intense protests, Michels had given the guards a video camera and instructed them to tape Crawford's comings and goings.

It was hard to know what to make of that. On a bitterly cold February night the guard and I sat in his car while he smoked cigarettes and drank the coffee Crawford had brought him. The equipment is gone from the valve site now; there was not anything to protect. I asked why he was still there.

He shrugged. "That's what we're trying to figure out," he said. "There's nothing out here." He thought for a minute. "Well, I'm prone to conspiracy theories. You know what I mean? I believe things no one should believe. But I think we're here because of her. I think they want to pressure her."

But Crawford didn't feel pressured. My very presence in the car—a meeting arranged by her—seemed ample proof of that.

It's this human element that TransCanada and its subsidiaries have consistently missed. TransCanada didn't take people like Crawford and Lori Collins into account, because no energy company, thus far, has had to. The power was all on one side.

"If they'd taken all the money they spent producing ads about being good neighbors and actually been good neighbors," said David Domina, head of the Domina Law Group, "the pipeline would have been finished a year ago."

In Texas it is finished. Despite the opposition of people like Crawford, the Keystone pipeline is now in the ground carrying bitumen beneath the soil of East Texas. But thanks to cases like the Collinses', the opposition network in Nebraska has made inroads into Texas. TransCanada pushed the Collinses right into this network's orbit. The company did damage that no settlement could undo.

In the Collins case, there was dissension even among the UFS land agents working for TransCanada. One, speaking on condition of anonymity, said he quit soon after TransCanada reneged on the deal with J.B.; he wouldn't talk much about his time with the company but said that what happened to the Collinses was "the straw that broke the camel's back." According to Lori, another UFS agent said the company had no intention of fixing the sewage problem. He gave her Julia Trigg Crawford's name and number.

Crawford came to the Collins home in November 2013. She took video of the bubbling sewage pit, of a floor so uneven it

looked, she later said, like a “fun house.” It isn’t clear that TransCanada knew she had made contact with the Collinses, though the company was watching her and had stationed off-duty cops above the Collins house. That’s relevant because a little over a week after Crawford’s visit, a TransCanada representative offered to pay the Collinses the full settlement amount, with the disputed $10,000 thrown in as an “inconvenience fee.”

To get the money, the Collinses would have to sign a liability waiver and non-disclosure agreement, forbidding them to talk about what had happened. “That’s just standard business practice,” Craig said. “Everyone in the industry does it.”

That may be so, but it shattered whatever faith the Collinses had left in the company. Two weeks later, Waldrop, the UFS land man, offered the Collinses $25,000, no strings attached, plus a temporary living allowance of $5,000 a month. He promised that their house would be restored to better than it had been before.

The Collinses recorded that meeting. Waldrop advises them to take the money. Lori balks. She says TransCanada should have to pay for what it did. Waldrop’s response sums up why landowners often have trouble holding the company accountable.

“TransCanada is a word,” he said. “It’s not a person, not an activity. There’s no one that this responsibility is going to fall on their shoulders and it’s going to ruin their career or anything.”

“It’s like the Mafia coming up and saying, ‘Hey, take this money, trust us,’” J.B. Collins said. “And we’re like, ‘Wait, what happens, [if] we take this money? What happens down the road?’ We didn’t even know the full amount of the damages, and they said, ‘Just take this money right now.’” Anyway, he said, the house was totaled. “It’s like you have a junk car and someone offers to fix it. Well, I don’t want the car. It’s broken.”

In February 2014, the Collinses retained David Domina’s Nebraska law firm for their suit against TransCanada. When I met them early that month, Jane Kleeb, one of the Nebraska organizers, was serving as their press liaison. Brian Jorde was their lawyer. As soon as he got involved, Jorde told me, TransCanada’s brass started responding. “Their offers suddenly went up 800 percent over what they had been before,” he said.

In May 2014, the company settled with the Collinses for $479,000. Lori told me the money doesn’t make up for her family’s suffering; they only settled because they were exhausted and badly needed the money. “If I had the backing, I would have fought them all the way,” Lori said. “But they sucked us dry. They took our home, our livelihood, our work from us.”

Talking to the Collinses made me think of a principle in medical malpractice—that the doctors who get sued aren’t necessarily the ones who mess up the worst or have the deepest pockets. It’s the ones who never say they’re sorry. That’s what TransCanada and its affiliates had been categorically unwilling to do, leaving the Collinses with nothing but their pain and loss. The money doesn’t make that go away. And it hasn’t kept Lori Collins, the woman who once delivered cobbler to pipeline workers, from becoming an activist.

In May, while settlement negotiations were wrapping up, Lori got on a plane with Julia Trigg Crawford and flew to Washington, D.C., for an anti-pipeline rally. When she got back she was speaking in the catchphrases of the national anti-Keystone movement, talking about defending “farmers and ranchers” and protecting “our land and water.” For the first time, she’d met others affected by the pipeline and organizing against it: Nebraska farmers, South Dakota Sioux, Canadian ranchers. She was impressed by what she saw.

But she also felt a sense of doom. On her last day in D.C., she spoke in front of a crowd about what had happened to her family. The words burned through her, and when she sat down she cried like a baby. “Some of the other people in the congregation came up and hugged me,” she said, “and I was shaken because it was ripping me inside out.”

She had looked out at the people listening to her, “all these people fighting for their land and livelihood,” festive in their movement shirts and tribal attire, and she thought, “You all are screwed. The company is going to take your land, promise you everything in the world, but they won’t come through.’ Those people will never know life as they’ve known it before,” she said. “It’ll just be them and their paradise that’s turned into hell.”

Tags: david holland, eminent domain, Fracking, Julia Trigg Crawford, keystone xl, transcanada

Fatigue Linked To Dozens Of Fatal Crashes Involving Oilfield Workers

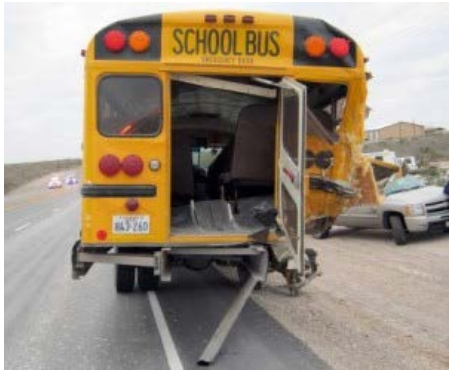
SEPTEMBER 17, 2014 | 9:49 AM

BY **ANDREW SCHNEIDER, HOUSTON PUBLIC MEDIA**

From Houston Public Media:

State Highway 72 cuts through the heart of the Eagle Ford Shale in South Texas. The two-lane artery links oil boomtowns like Kenedy and Tilden to the Three Rivers Valero refinery. Local residents call the highway "Death Row."

"Every week someone dies, just about," says Steve Alaniz, a construction manager based in Three Rivers. "There's so many guys that work nights, and there's so many people getting up early. Everybody's in a hurry. The roads aren't big enough for this kind of traffic."



TEXAS DPS PHOTO

The Three Rivers ISD school bus was totaled in this accident in January 2014, after a fracking crew driver fell asleep and hit the bus. Three workers in a commercial van were killed; but the children were safe.

Early on the morning of January 30, a Three Rivers school bus was pulling into an RV park off Highway 72, when a van filled with oilfield workers employed by Compass Well Services plowed into the bus's rear end. Alaniz was one of the first on the scene. He found the students safe at the front of the bus, thanks to school district policy in response to the heavy traffic.

"And then I went to the van," Alaniz says, "and there was an RN there and two other guys that were pulling out of the trailer park. And we got all the guys out that were alive, and three of them were just dead when it happened, I guess."

The dead included driver Daniel Zambrano and passengers Martin Aguirre and Joe Rios. The men had just come off a 24-hour shift. According to the Department of Public Safety's accident report, Zambrano didn't even apply his brakes, indicating severe fatigue.

The crash came just a year after another accident involving a Compass crew driving home

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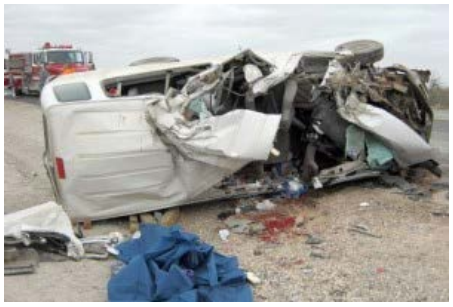
after a long shift — also in the Eagle Ford, also resulting in multiple deaths. Compass did not return calls requesting comment.

Texas Mutual Insurance is the state's biggest workers' compensation underwriter. It says oil and gas companies filed 24 claims for fatal auto accidents from January through July of this year. That's up from eight for all of 2009.



TEXAS DPS PHOTO

Killed in the triple tragedy on State Route 72 in January 2014 were Daniel Zambrano, of Kilgore, Jose Rios of San Antonio and Martin Aguirre of Brownsville. All three men had completed a 24-hour shift before they were killed on their way to place to rest. Four others riding in the van suffered injuries after the driver fell asleep and struck a school bus.

"We see a high incidence of motor vehicle operators who've worked fourteen hour shifts, driving down the road and falling asleep at the wheel," says Woody Hill, Texas Mutual's vice president for safety services.

DPS accident reports cite fatigue as a contributing cause in dozens of recent fatal crashes involving oilfield workers. Many wind up piling into a company van and sharing a long commute between their work site and a hotel.

In March 2013, nine Sanjel Corporation employees were returning to their hotel, after a 12-hour night shift near Odessa. A pickup truck hit their van, killing Fernando Portillo of Tomball, Michael Vonesh of Pearland, and Jose Ponce of Canutillo, near El Paso.

"Fatigued driving is right there on the same par as driving while intoxicated," says Alexander Gurevich, a Houston attorney representing the victims' families in a wrongful death suit. "To put men in a position of being fatigued and to be driving long distance is not something that a company should do, and it shows a disregard for the safety of their employees."

Sanjel says the driver of the company van has testified that he was not fatigued at the time of the accident.

Insurers like Texas Mutual are leaning on policy holders to make sure drivers are well rested before getting behind the wheel. The statistics show they're fighting an uphill battle.

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Devon using plastic covers to preserve water used in fracking

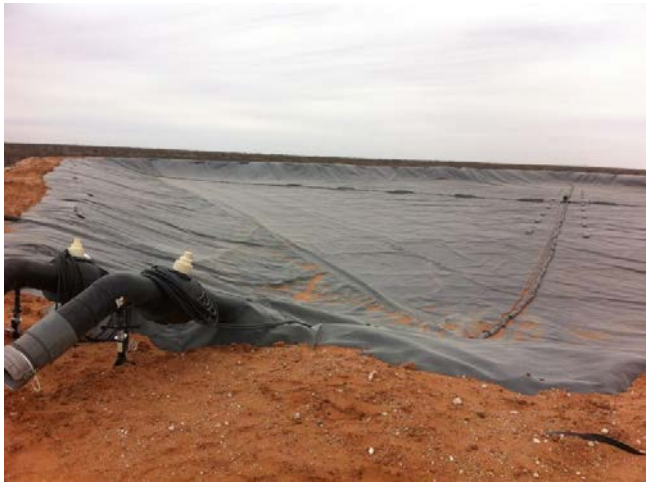
By ADAM WILMOTH NewsOK.com | Posted: Thursday, September 18, 2014 12:00 am

As oil and natural gas companies continue to expand production during the ongoing drought, companies have increased their efforts to reduce water demand and protect the water they use.

Oklahoma City-based Devon Energy Corp. last year began experimenting in west Texas with covering the large pits it uses to collect water for use in hydraulic fracturing, or fracking. The process typically uses about 4 million gallons of water per well.

The pit covers are designed to reduce evaporation, saving the company millions of dollars and gallons of water.

The covers cost $150,000 to $350,000, depending on size, but pay for themselves in just two to four months, said Tim Raley, production superintendent.



Devon using plastic covers to preserve water

A plastic tarp covers a water pit near a Devon Energy work site. Courtesy

Click here to link to the article on NewsOK. Some stories require an Oklahoman subscription to read.

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awilmoth@opubco.com

EPA grants extension on power plant pollution plan

Posted: Wednesday, September 17, 2014 12:00 am

Associated Press | 0 comments

WASHINGTON — The Environmental Protection Agency on Tuesday gave the public 45 more days to weigh in on a plan that would for the first time curb the pollution blamed for global warming from the nation's coal-fired power plants. The agency said it was still aiming to finalize the rules by next summer.

The agency has already received 750,000 comments on the plan it unveiled in early June, which proposes a 30 percent cut in carbon dioxide pollution by 2030 from 2005 levels. It is one of the most significant actions ever take by the U.S. government on global warming, and the EPA said it needed more time to get it right.

The announcement comes a week after 53 U.S. senators asked for an additional two months, and a week before President Barack Obama is expected to speak at a United Nations climate summit aimed at making progress toward a new international agreement.

The White House said in June 2013 that final rules to reduce carbon pollution from existing power plants would be issued no later than June 2015.

The EPA said it was still working toward that deadline.

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BUSINESS DAY

Altered to Withstand Herbicide, Corn and Soybeans Gain Approval

By ANDREW POLLACK SEPT. 17, 2014

The Agriculture Department has approved the commercial planting of corn and soybeans genetically engineered to survive being sprayed by the herbicide known as 2,4-D, according to documents it posted on a federal regulatory website on Wednesday.

Some corn and soybean growers have been pushing for approval, saying the new crops would give them a sorely needed new tool to fight rapidly spreading weeds that can no longer be killed by Roundup, known generically as glyphosate, the usual herbicide of choice.

But critics say that cultivation of the crops, which were developed by Dow AgroSciences, will mean a sharp increase in the spraying of 2,4-D, a chemical they say would be more damaging to the environment, nearby non-engineered crops and possibly human health, than Roundup.

“With this approval comes millions of more pounds of toxic herbicides dumped onto our land; it’s an unacceptable outcome,” Andrew Kimbrell, executive director of the Center for Food Safety, a Washington advocacy group, said in a statement.

He hinted that the organization might file a lawsuit to try to reverse the decision, as it has done with other rulings related to genetically engineered crops.

The Environmental Protection Agency must still approve a new formulation of 2,4-D that is supposed to be used with the crops.

Dow AgroSciences, a division of Dow Chemical, has said it expects to have all approvals in time to begin selling what it calls the Enlist weed control system for planting next year.

The Agriculture Department, in its environmental analysis, predicted that approval of the crops would lead to a 200 percent to 600 percent increase in the use of 2,4-D nationally by 2020. But it said analysis of the effects of that increased use was the responsibility of the E.P.A. The Agriculture Department said its approval depended mainly on whether the crops would harm other plants.

The chemical 2,4-D was one component of Agent Orange, a defoliant used in the Vietnam War that has been linked to various health problems. But experts say the health effects were caused mainly by another ingredient in Agent Orange.

The E.P.A. has declined to remove 2,4-D from the market on health and safety grounds. The chemical is the nation's third most widely used herbicide behind glyphosate and atrazine, and it also is used in many home lawn care products, according to the Agriculture Department.

Crops resistant to glyphosate, known as Roundup Ready crops, now account for the vast majority of corn and soybeans grown in the United States. That is because they make it easy for farmers to control weeds. Farmers simply spray glyphosate on their fields, killing the weeds while leaving the genetically engineered crops intact.

But it was so easy that farmers ended up relying too heavily on glyphosate, allowing many types of weeds to develop resistance. Weeds that can no longer easily be killed by glyphosate now infest about 70 million acres of American farmland, double the area in 2009, according to Dow.

Farmers have had to resort to using different chemicals, or higher doses of glyphosate, or to tilling their fields, which can increase soil erosion. Some farmers have had to go back to pulling weeds by hand.

The new crops, which would also be resistant to glyphosate, would be a solution. Farmers could spray a mixture of 2,4-D and glyphosate, which

would kill even the weeds that no longer succumb to glyphosate alone.

"We've used the latest science and technology to address problem weeds," Tim Hassinger, president of Dow AgroSciences, said in a statement Wednesday. "Enlist will be a very effective solution and we're pleased to have this technology one step closer to the farm gate."

Monsanto, which developed the Roundup Ready crops, is now awaiting approval of crops resistant to a different herbicide called dicamba. But critics say it will not be too long before weeds develop resistance to 2,4-D as well as dicamba.

Both 2,4-D and dicamba have a tendency to drift or evaporate, allowing them to spread to nearby farms where they could harm crops not engineered to be resistant to the chemicals.

A group of fruit and vegetable growers and canners in the Midwest, calling itself the Save Our Crops Coalition, had initially opposed approval of Dow's corn and soybeans.

But the group changed its stance after Dow promised to take certain steps to reduce the risk of drift. Farmers growing the corn and soybeans will have to promise to use the new herbicide that the E.P.A. is now evaluating. The product, called Enlist Duo, is a mix of glyphosate and a new formulation of 2,4-D meant to minimize drift and volatilization.

Farmers will also have to agree to certain other restrictions on how and when the chemical can be sprayed.

Dow had initially hoped to get its corn on the market by 2013. But the Agriculture Department decided to write full environmental impact statements, rather than less comprehensive environmental assessments, delaying the approval.

The agency received more than 10,000 submissions on its draft environmental impact statements during the 60-day public comment period, which ended in March. More recently, it said, it received petitions with more than 240,000 signatures opposing approval.

A version of this article appears in print on September 18, 2014, on page B3 of the New York edition with the headline: Altered to Withstand Herbicide, Corn and Soybeans Gain Approval.

4. OIL AND GAS:

Texas looks for cure to road danger in the oil patch

Mike Lee, E&E reporter
Published: Thursday, September 18, 2014

Texas highway officials are seeking more funds to repair roads and improve safety as vast swaths of the state cope with increases in truck traffic from the oil and gas industry.

Voters statewide will decide in November whether to divert $1.7 billion a year to roads in oil- and gas-producing regions (***Greenwire***, Aug. 27).

The Texas Department of Transportation has also **asked** for an additional $2 billion annually in fiscal 2016 and 2017 to pay for roads in the energy sector.

"In the five months I've been here, people have asked me what keeps you awake at night, and I will tell you right now -- it's the energy sector," Joe Weber, executive director of the Texas DOT, said during a hearing of the state Senate's Transportation Committee.

The number of highway fatalities declined statewide to 3,377 in 2013 from 3,413 in 2012, but both the raw number of deaths and the rate of deaths per miles traveled remained higher than in 2009. State officials said oil and gas traffic contributed to at least some of the increase.

"When you have an 80,000-pound truck and you get in an accident, bad things are going to happen," Department of Public Safety Director Steve McCraw said.

DPS has pulled state troopers from other regions to inspect commercial vehicles in the Eagle Ford Shale region of South Texas, McCraw said.

At the same time, DPS has been stretched thin by state leaders' decision to send troopers to the U.S.-Mexico border.

State Sen. Rob Nichols, a Republican from Jacksonville, asked whether the Transportation Department and DPS could do a better job predicting oil field traffic using data such as permits for oil wells and oversized vehicles. That would give them the ability to improve roads and reassign state troopers before the trucks arrived, he said.

The problem is that oil companies often want to keep their operations confidential, not wanting to disclose where they're drilling, said Jody Richardson of the Texas Oil and Gas Association.

"They don't really want to tell each other that information, and they don't tell us," she said.

Officials from rural areas pressed the committee for more funding across the board.

Oil production in Texas has nearly tripled in five years to 3 million barrels a day in June, according to the **U.S. Energy Information Administration**.

Much of the production has come from shale fields, which require a combination of horizontal drilling and hydraulic fracturing to break open the rock. Each shale well can require 1,180 truck trips.

Many of those trucks are being driven down rural roads that weren't designed for them, leading to damage and collisions. Officials from rural counties in the Eagle Ford Shale have been pressing the Legislature to provide more funding.

In McMullen County, the number of vehicle crashes rose from 49 in 2010, before the oil boom started, to 145 in 2012, before falling in 2013, County Judge James Teal said during the hearing. The county had fewer than 750 residents in 2010 and was patrolled by a single sheriff. Today, the sheriff has 10 full-time deputies, Teal said.

"Increased funding for these county roads and state roads is just mandatory," he added.

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1. **CLIMATE:**
   MISO study suggests bigger is better when it comes to EPA carbon compliance

TOP STORIES

2. **GRID:**
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3. **LNG:**
   Wall Street is seeing what some refuse to -- U.S. gas exports in big volumes
4. **OIL AND GAS:**
   Texas looks for cure to road danger in the oil patch

ELECTRICITY

5. **ELECTRICITY:**
   N.Y.'s reliability could be in trouble starting in 2019 -- state grid operator
6. **PEOPLE:**
   Edison International subsidiaries appoint new chiefs
7. **CLIMATE:**
   EPA's extended comment period for carbon rule gives Ohio utility more time to fight back
8. **SECURITY:**
   FirstEnergy installs new fencing, monitors at substations

OIL AND GAS

9. **WORKER SAFETY:**
   Study finds high benzene levels around shale well tank hatches
10. **BAKKEN SHALE:**
    Tribal leader loses bid for re-election
11. **OIL:**
    Powder River Basin production doubles in 5 years

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12. **EXPORTS:**
    Energy economist Medlock discusses future of U.S. LNG, crude oil exports

9. WORKER SAFETY:

Study finds high benzene levels around shale well tank hatches

Mike Soraghan, E&E reporter
Published: Thursday, September 18, 2014

Workers who measure tank levels at shale oil production sites face a unique hazard from benzene and other airborne chemicals, a federal study has found.

The study by the National Institute for Occupational Safety and Health (NIOSH), part of the Centers for Disease Control and Prevention, recommends that companies develop ways for those workers to measure the volume of the tanks without opening the hatches.

Testing at six sites in Colorado and Wyoming last year by NIOSH researchers found that "flowback testers" were exposed to higher-than-recommended limits for benzene, a carcinogen, and were exposed to high levels of other volatile organic compounds.

"There were differences between workers who gauged tanks versus workers that didn't," said author Eric Esswein, senior industrial hygienist in the Denver office of NIOSH. "That's the important message here."

Tests by Esswein and other research scientists showed that workers were breathing in more than the exposure limits set by NIOSH of 1 part per million for short-term exposure and 0.1 ppm averaged over an eight-hour shift.

Levels in workers' "personal breathing zones" were as high as 7.45 ppm while taking measurements, with most of the readings between 1 and 2 ppm. The time-weighted average over an eight-hour shift was 0.25 ppm.

Next to tank hatches but not in those personal breathing zones, instruments recorded benzene levels as high as 209 ppm and VOC readings as high as 538 ppm.

"So, let's say you're a worker up on top of a tank, and you do this several times a shift. If you add that up, that's many hundreds or thousands of exposures during a work career," said Robert Harrison, a specialist in occupational and environmental medicine at the University of California, San Francisco, and member of a NIOSH panel advising the agency's oil field investigations. "Those kind of high exposures to benzene can be toxic to the bone marrow and cause leukemia and other blood cancers."

None of the readings showed flowback exposed to levels higher than the regulatory limits set by the Occupational Safety and Health Administration (OSHA).

Some of the results would violate OSHA's general benzene standard of 1 ppm. But oil and gas drilling is exempt from that standard. Instead, it is set at 10 ppm at well sites.

Researchers also sampled for glutaraldehyde, polyaromatic hydrocarbons, methanol, propargyl alcohol and silica, and found no readings above occupational exposure limits.

"A fair amount of sand comes back up with flowback water, but of course it's wet," Esswein said in an interview.

The tests also highlighted some of the difficulties that worker safety officials have been dealing with in the oil and gas drilling industry. They are more accustomed to dealing with permanent workplaces where workers use refined products. Drilling crews move frequently and deal with raw hydrocarbons.

"It's not like being in a factory where you go in and you've got controls and the workers pretty much do the exact same thing every day," Esswein said. "This is like a mobile factory in an outdoor setting."

The study focused on "unconventional" or shale oil drilling, but unlike in the downstream side of the oil and gas industry, he said there's not much data about worker safety in unconventional or conventional production.

"The literature is extremely sparse," Esswein said.

The results are considered preliminary, and the researchers are hoping to test in other areas.

Short of measuring tanks without opening hatches, the study suggests workers use respirators, gloves and monitors that warn of high benzene levels. It also recommends training to ensure workers understand the hazards of exposure to benzene and other hydrocarbons.

Twitter: **@MikeSoraghan** | Email: **msoraghan@eenews.net**

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1. **CLIMATE:**
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4. **OIL AND GAS:**
   Texas looks for cure to road danger in the oil patch

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5. **ELECTRICITY:**
   N.Y.'s reliability could be in trouble starting in 2019 -- state grid operator
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7. **CLIMATE:**
   EPA's extended comment period for carbon rule gives Ohio utility more time to fight back
8. **SECURITY:**
   FirstEnergy installs new fencing, monitors at substations

OIL AND GAS

9. **WORKER SAFETY:**
   Study finds high benzene levels around shale well tank hatches
10. **BAKKEN SHALE:**
    Tribal leader loses bid for re-election
11. **OIL:**
    Powder River Basin production doubles in 5 years

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12. **EXPORTS:**
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Oil, gas drilling creates money for Texas schools

Updated 2:39 am, Thursday, September 18, 2014

SAN ANTONIO (AP) — A Texas oil and gas boom fueled by hydraulic fracturing and new horizontal drilling techniques has generated a record $1.26 billion this year to support K-12 public education.

The San Antonio Express-News reports (http://bit.ly/1r2AJTo) that the Texas General Land Office released the fiscal 2014 figures on Wednesday. Office spokesman Jim Suydam said the boon is due to a rapid increase in drilling on state lands, including acreage on the Barnett Shale and the Eagle Ford Shale.

The money comes from the state's Permanent School Fund, now valued at more than $34 billion. The fund is generated by oil and gas royalties, lease rentals, bonuses and other sources. Only the fund's interest can be spent.

Lease income surged sevenfold in 2014 as compared to 2013, and lease bonus income jumped 86 percent over the same period.

"Oil and gas have been very good for public education in Texas, but we're really starting to see the fruits of our efforts to diversify our income stream," Land Commissioner Jerry Patterson said in a statement.

Earned interest is distributed by the State Board of Education to Texas school districts on a per-pupil basis.

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"The extra money for public education will help," Texas State Teachers Association spokesman Clay Robison said in an email. "But unfortunately, it won't change the fact that several hundred school districts in Texas will remain underfunded until the Legislature comes up with a plan for adequately

and fairly funding all Texas schools."

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Information from: San Antonio Express-News, http://www.mysanantonio.com

Bloomberg BNA Daily Environment Report™

Source: Daily Environment Report: News Archive > 2014 > September > 09/18/2014 > News > Air Pollution: Approval of Texas Flexible Permit Program Challenged by State Environmental Groups

181 DEN A-16

Air Pollution

Approval of Texas Flexible Permit Program Challenged by State Environmental Groups

By Nushin Huq

Sept. 17 — A number of Texas environmental groups filed a petition for review with the U.S. Court of Appeals for Fifth Circuit on Sept. 12, asking the court to review the Environmental Protection Agency's decision to approve Texas's revisions to its flexible air permit program (Environmental Integrity Project v. EPA, 5th Cir., No. 14-60649, 9/12/14).

The groups contend Texas's flexible permit program allows facility operators, even large operators such as refineries owned by Exxon Mobil Corp., Royal Dutch Shell Corp., and Valero Energy Corp., an avenue to skirt requirements of the Clean Air Act.

The groups, which represent people living near refineries and factories, say the EPA should not have approved the Texas Commission on Environmental Quality's plan in July, which they say provides no certainty that facilities will give public notice and file for necessary permits when modifying their plants and increasing emissions, Ilan Levin, associate director of the Environmental Integrity Project, told Bloomberg BNA Sept. 17.

EPA's Compromise With TCEQ

The flexible air permit program, which has been in effect since the mid-1990s, allows facility operators, designated as minor sources of emissions, to establish a site-wide emissions cap. This allows the facility to make modifications to its plants without additional permitting as long as the entire site stays under the cap.

In 2010, the EPA rejected the program, stating that the plan failed to comply with Clean Air Act requirements. The Fifth Circuit in 2012 vacated that decision, ruling that the EPA did not properly explain what was wrong with the program.

In July, the EPA, after making a compromise with the TCEQ, approved minor clarifying changes to the permitting program, which the agency said will now bring the program into compliance with the Clean Air Act. The petitioners argue that those modifications should not have been approved because there is still no guarantee that these facilities will be in compliance with the Clean Air Act, Levin said.

"The TCEQ sent a letter to the EPA assuring the agency that companies will comply and get the necessary new source reviews," Levin said. "We believe that the EPA ran out of steam, caved in and approved the program."

The groups want changes in the program that will require operators to post public notice and allow public comments to be filed when there are modifications to the plants, and they want permitting requirements for these facilities when they make modifications to their facilities, Levin said.

"Right now, there's no way for people to know when these facilities are making modifications to their refineries," Levin said. "We represent people who live next to these factories and are breathing in that air."

The groups are also challenging the label that these permits are only going to small facilities. Large operators can have multiple flexible permits for a site by building along their fence line, Levin said. For example, the Exxon Mobil chemical plant in Baytown, Texas, has multiple permits.

"That label is misleading and I think the Fifth Circuit was led to believe it would only be used for minor facilities," Levin said.

The petitioners are confident in their case, and believe the record they are presenting to the court is a stronger, more robust record than the one the EPA presented, Levin told Bloomberg BNA.

"It's a brand new case and a new record," Levin said. "For example, we have clear examples of how these permits are being used by large facilities."

The last ruling on this program was a 2-1 decision, and with a stronger case, Levin believes they can get a majority decision on their side.

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Natural gas alone isn't magic weapon against climate change

Posted by: Zach Koppang in Business, Energy, Health, International, Natural Gas, Top Stories 8 hours ago 12 Views

Hal Bernton | The Seattle Times

DENTON, Texas — Natural-gas wells here can be found just beyond the hedgerows of new subdivisions, and close by the hangars at the municipal airport. Their tunnels extend deep underneath a city park, a golf course and the University of North Texas football stadium.

The wells draw from the Barnett Shale, a geological formation once thought too dense to be profitably tapped for energy. Then, in 1997, crews deploying water under high pressure with chemicals and sand learned how to fracture the shale rock and release vast new supplies of natural gas — a process known as fracking.

That technology has reshaped America's energy industry, with shale gas now produced in more than a dozen states. And, President Obama is touting the expansion in natural-gas-generated electricity, which produces roughly half the carbon emissions of coal, as a bridge to the nation's energy future.

But natural gas is no long-term fix in the effort to shield the world from the most severe effects of climate change or meet the difficult goal set by Obama and other world leaders to keep global temperatures from rising no more than 2 degrees Celsius.

Some experts say unfettered burning of natural gas, without adding systems to capture carbon emissions, will significantly undermine that effort.

"Gas may be the cleanest of fossil fuels, but it is still a fossil fuel," said Maria van der Hoeven, executive director of the International Energy Agency, in a July speech. "The widespread use of gas without emissions abatement would leave us with no chance of meeting our 2- degree climate goal."

The ability of natural-gas use to combat climate change is further eroded by leakage from the production, processing and transport of the fuel. Methane is the primary component of natural gas, and when vented rather than burned for energy, it acts as a short-lived but potent greenhouse gas.

The sheer abundance of natural gas also could work against efforts to limit climate change. If big supplies keep prices low, then natural gas could slow the development of alternative sources of energy that could

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help meet the 2050 goals.

A study released in 2013 by Stanford University's Energy Modeling Forum found that natural gas in the decades ahead is likely to replace not only high-carbon coal but also zero-carbon fuels like nuclear, which now provides nearly 20 percent of the nation's electricity.

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Last year, for example, a nuclear-power plant in Wisconsin shut down because it could no longer compete in markets driven down by low-cost natural gas. More nuclear-plant closures are forecast in the years ahead.

Tracking these trends, the Stanford study concluded that a surge in natural-gas use spurred by the fracking technology would have "relatively modest impacts" on carbon emissions through 2050.

"You might see some downturn, but it's not any kind of a game changer," said Hillard Huntington, executive director of Stanford University's Energy Modeling Forum. "Shale gas development is not a big winner from a climate point of view."

Technical breakthrough

The fracking boom began in the farmlands outside Denton, where George Mitchell, a gas and oil driller, spent more than 15 years experimenting with tapping the Barnett Shale that underlies numerous Texas counties.

Mitchell, the son of a Greek goat herder, was an industry maverick. He studied chemical engineering at Texas A&M. But he also attended seminars at the Aspen Institute, where he was influenced by Buckminster Fuller, the inventor and philosopher who spoke about developing a new ethic of sustainability.

Mitchell, who died last year, championed gas as a cleaner fuel than coal and wanted to find ways to dramatically increase production. Traditional wells tapped into pockets of gas trapped underground, but Mitchell was convinced that vast amounts could be liberated from source rocks.

Mitchell's breakthrough came in 1997 as his crews abandoned a costly gel used in fracking in favor of a much cheaper mix of water, chemicals and sand.

In the first few months after fracking, Mitchell's crews worried the flow from that fracked well would fade. It didn't, and in the years that followed, horizontal drilling was found to free up even more shale gas.

"There is so much gas out there. All we have to do is turn on the tap," said Chip Minty, of Devon Energy, a major developer of fracked wells. "Unlike any time in the history of the oil and gas business … we can get it when we need it. And we will."

Today, some 18,000 wells have been drilled into the Barnett Shale. Their concrete pads are scattered over the farm fields and pasture lands, and now in towns and cities such as Denton. Nationwide, shale-gas fields helped boost total U.S. natural-gas reserves by 35 percent during the two-year period ending in 2008.

The technology is evolving so quickly that wells drilled in Denton less than a decade ago already are being redrilled to frack more gas-rich shale.

"I hate to say it like this. A lot of times we buy other people's garbage, and we are taking their garbage and recycling it," said Mark Grawe, chief operating officer of EagleRidge Energy, which in recent years has been the most active drilling company in Denton.

Health, safety concerns

As fracking has grown, so too have the safety and health concerns.

In some areas of the country, increased fracking has been accompanied by a dramatic surge in earthquakes. Researchers also are assessing the risks that reinjected wastewater from fracking sites could pose to drinking-water aquifers, and are looking at the possible effects on lakes and steams of runoff from fracking sites.

Outside of Denton, population 123,000, the small town of Dish has some 60 gas wells as well as a station where gas is pressurized for transport. Residents complain of headaches, nosebleeds, nausea and other health problems that they believe are linked to air pollution. Some families, including that of a former mayor, ended up leaving.

In Denton, residents who live near gas development are concerned about whether their health is compromised by exposure to air pollutants such as benzene, a carcinogen.

More recently, residents of a subdivision built within 300 feet of EagleRidge wells were angered by fumes, noise, nighttime lights, gas flaring and truck traffic close by their homes. This year, they filed a $25 million lawsuit against EagleRidge.

Grawe, of EagleRidge, says he tried to minimize the impacts of the operation.

"The perception has been that we don't care about anything, and are just out to do whatever we want," he said. " But I've been out at night talking to people about their concerns about noise and light. I'm just as concerned about the environment as they are."

The drilling so close to this subdivision helped spur a petition drive to ban fracking in the city, and that proposal — an idea rejected by the city council — will be on the ballot this fall. If passed, the ban would be a first for a major Texas city.

"There were people who we were working with who thought that was too radical a measure. But when that fracking started by those homes, everyone said they have just crossed the line to a level of brutality that is unacceptable," said Cathy McMullen, a Denton home health nurse who helped organize the petition drive.

Tracking methane leaks

On a warm fall morning, a small plane lifted off from the Denton municipal airport on a hunt for methane gas that leaks into the atmosphere.

These aerial surveys have been carried out in Texas, Colorado, Pennsylvania and elsewhere, in aircraft packed with sophisticated monitoring equipment that can distinguish methane produced by the industry from that of other sources, such as stockyards or landfills.

These results are key to figuring out what role natural gas plays in triggering climate change.

Methane is the main component of natural gas. During the first 20 years after its release, a pound of methane is some 84 times more potent in trapping sunlight than is carbon dioxide, the much longer-lived gas released when any fossil fuel is burned for power production.

The Environmental Protection Agency estimates that some 2.4 percent of the annual production of natural gas leaks into the atmosphere as methane.

Aerial surveys in several states indicate that the leak rates may be much higher than the EPA estimates. In Utah, one study indicated that the rate, at times, topped 9 percent.

But there also are signs of progress.

The process of preparing a gas well for commercial production, for example, has been a major source of vented methane. During completion, gas mixed with water flows to the surface and typically has been released into the atmosphere from an open tank. A University of Texas study found that new equipment, which next year will be required by EPA regulations, can reduce these emissions by 99 percent.

Paul Shepson, a Purdue University researcher involved in the Denton surveys, believes most of that methane can eventually be contained.

"I don't worry so much about methane leaks. We will find the leaks and fix those problems," Shepson said.

Even if that happens, producing power from natural gas will remain a significant contributor to climate change so long as carbon emissions continue to be released during combustion.

"The real issue is about the CO2 emissions we are committing to," Shepson said. "The United States is reinvesting in fossil fuels as a power source, and we will keep using natural gas as long as it's cheap."

Alex Krouse, Melanie Lawder and Carolyn Portner contributed research while students at Marquette University.

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